IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

WP(C).No. 8588 of 2007(V)

PETITIONER:

ARCTIC SYSTEMS, G-405,
PANAMPILLY NAGAR, KOCHI, REPRESENTED BY
ITS PARTNER SRI.ANIL KUMAR.S.

BY ADV. SRI.K.R.AVINASH

RESPONDENTS:
----

1. **SALES TAX OFFICER, CIRCLE-11,**
   THRIPUNITHURA.

2. **THE DY.COMMISSIONER, (APPEALS),**
   COMMERCIAL TAXES, ERNAKULAM.

3. **INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAXES, ERNAKULAM, KOCHI-30.

BY SR.GOVERNMENT PLEADER SRI.MOHAMMED RAFIQ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 8588 OF 2007-V

JUDGMENT

The petitioner attacks Ext.P5 interim order passed by the 2nd respondent, on the interlocutory application filed by it for stay along with Sales Tax Appeal No.2909/2006. Though the petitioner sought absolute stay, it was granted on condition the petitioner pays one-third of the balance tax due. The main dispute raised by the petitioner relates to the dis-allowance of the amounts covered by the annual maintenance contracts and service charges. Going by the contentions raised by the petitioner concerning those two items, I feel that the direction to pay one-third of the amount cannot be said to be on the higher side. Ext.P5 is only an interim order. This Court can interfere with the said order, if only the same is shown to be perverse or one which no man in his senses will pass. Ext.P5 cannot be described like that. The petitioner has been granted substantial relief of stay of recovery of 1/3rd of the balance tax due till the disposal of the appeal. So, I find no reason to interfere with Ext.P5. Accordingly, the writ petition is dismissed without prejudice to the contentions of the petitioner regarding the merits of its case. Ext.P3 is an application for early hearing

of the appeal. The appellate authority will pass orders on it within one week from the date of production of a copy of this judgment.

14th March, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/